

- 7 a panel coupled to the bracket assembly;  
8 wherein the bracket assembly includes a pair of arms, and further  
9 comprising a panel coupled to each arm.

REMARKS

Claims 1-16 and 21-28 have been examined. Claims 1, 2, 26 and 27 have been amended. The allowance of claims 25 and 28 is gratefully acknowledged. Reconsideration of the claims, as amended, is respectfully requested.

Claim Rejections - 35 USC 102

Claims 1, 2, 7, 8, 13, 14, 26 and 27 have been rejected under 35 USC 102(b) as being anticipated by Dispenza. This rejection is respectfully traversed.

As now amended, independent claim 1 includes the limitation that an arm is pivotally coupled to and extends from the bracket assembly. Further, a panel is coupled to the bracket assembly by the arm. In this way, the panel is movable to different angular locations relative to the post by pivoting the arm. As such, the panel may be moved to a variety of angular orientations relative to the post so as to be used as a shelf or as a sneeze guard panel, in a simple and convenient manner.

In contrast to the sneeze guard of claim 1, the Dispenza patent teaches a shelf system that is far different. More specifically, the Dispenza patent describes a traditional set of shelves that are arranged to be horizontal. The Dispenza patent contains no description of moving the shelves to any position other than horizontal.

As such, the Dispenza patent fails to describe a patent that is movable by pivoting an arm as claimed in claim 1. As such, the Dispenza shelf system is incapable of being moved to a variety of angular orientations so that it may also be used as a sneeze guard panel. Hence, claim 1 as now amended is distinguishable, and it is respectfully requested that the section 102 rejection of claims 1, 2, 7, 8, 13 and 14 be withdrawn.

Independent claims 26 and 27 have been amended to recite that the panel is pivotal relative to the post. As just described, the Dispenza patent fails to teach such

an arrangement. Hence, it is respectfully requested that the section 102 rejection of these claims be withdrawn as well.

Claim Rejections - 35 USC 103

Claims 10, 11, 16, and 21-23 have been rejected under 35 USC 103(a) as being unpatentable over Dispenza. This rejection is respectfully traversed.

Claims 10 and 11 depend from claim 1 which is distinguishable over Dispenza. Hence, these claims are distinguishable for at least the reasons previously described.

Claims 21-24 are method claims that positively recite the step of "positioning the sneeze guard such that the panel is positioned between displayed food and a viewing location by moving the bracket assembly lengthwise along the longitudinal axis of the post." This limitation is neither taught nor suggested in Dispenza. Indeed, the Dispenza patent contains no description of sneeze guards or of protecting food from a viewing location with a panel as claimed in claims 21-24.

Instead, the Office Action merely recites that "the apparatus as disclosed by Dispenza could be used in the manner as claimed in claims 21-24, thereby anticipating the claims of the instant invention." However, such is not the touchstone for patentability. Rather, section 103 of the patent statute requires a specific teaching of the recited limitation, and not merely a statement that "it would have been obvious". In Dispenza, no such teaching may be found. Moreover, since the Dispenza device is intended to be used as a shelf, there is no teaching of positioning it between displayed food and a viewing location as claimed. Hence, for this additional reason, the Dispenza device does not render claims 21-24 obvious. As such, it is respectfully requested that the section 103 rejection of these claims be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

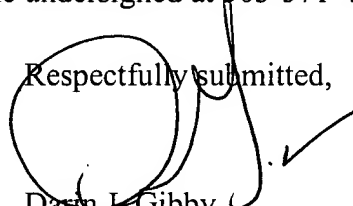
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If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

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